

REMARKS

The claims have been amended to improve the style of this application. In particular, the claims have been amended to address the 35 USC § 112 rejections made in the last Office Action and to further define over the prior art.

In particular Applicant has given special attention to claim 67 which is an independent claim, and has not been rejected in view of the prior art.

Claim 67 has been rejected because the phrase “each of said plurality of article shafts being holdable of a plurality of the articles” is unclear with respect to the function performed by the article shafts. Applicant notes that the function of the article shafts is to hold the plurality of articles. In the present invention, the article shafts have the function of holding a plurality of articles. The article shafts do not always hold a plurality of articles, but can at times be empty. Also, Applicant does not intend to require the plurality of articles to be present, in order for the claim to be infringed. Therefore Applicant used the phrase that the article shafts were “holdable” of a plurality of articles. It was Applicant’s intention to indicate that the article shafts had structure for holding the articles, but that this structure did not require that the articles be present, only that the structure had the ability to hold articles.

Applicant has amended claim 67 to specifically set forth that the article shafts have a support for holding the plurality of articles. It is Applicant’s position that this further emphasizes the structure of the article shafts which performs the function of holding the plurality of articles. It is Applicant’s position that the term “holdable” indicates that the structure has the function of “holding” and that the two terms are similar in this situation. Because of the close relationship between “holdable” and “support for holding”, it is Applicant’s position that the change to claim 67 is not a new issue. If the Examiner has any

comments or suggestions for alternate wording of this feature, the Examiner is invited to contact Applicant's representative by telephone to discuss possible changes.

Claim 67 has also been rejected with regard to the phrase "said loader be holdable of a stack of the articles in a substantially vertical position" being unclear with respect to the function performed by the loader. Applicant has further amended claim 67 to set forth that the loader has a support for holding a stack of the articles. The function of the loader is to hold a stack of articles. It is Applicant's position that this function would be understandable to a person of ordinary skill in the art, and this person would therefore understand that any prior art loader would have to be able to hold a stack of articles in order to anticipate the loader of claim 67. Likewise any infringing loader would need to have structure which would perform the function of holding a stack of articles.

Claim 67 has been amended to set forth that the loader has structure in the form of a support which has the function of "holding" a stack of the articles. As Applicant has described above, the phrase "holdable of" and "for holding" are understood to be similar in the context of claim 67. Therefore the change to claim 67 with regard to the loader overcomes the rejection. If the Examiner has any comments or suggestions for alternate wording for this feature of the loader, the Examiner is invited to contact Applicant's representative.

Claim 67 has also been rejected with regard to the recitation "an ejector movable in a transverse direction to the stack of articles" as being unclear with respect to the direction in which the ejector moves. Applicant has amended claim 67 to set forth that the ejector is movable in a transverse direction to a predominately vertical longitudinal direction of the stack of articles. In the embodiment of present Fig. 6, the stack of articles 7 has a longitudinal axis or direction which is vertical, and the ejector 53 is movable in a substantially horizontal direction which is substantially perpendicular to the vertical direction. This amendment to

claim 67 further explains the transverse direction.

Applicant notes that a common definition or understanding of transverse is to be at a direction which is right angles to a long or longitudinal axis. It is therefore Applicant's position that the amendment to claim 67 is not a new issue, but only further describes what is commonly known as the transverse direction. A person of ordinary skill would understand that a stack of articles has a longitudinal axis, and that in the example of present Fig. 6, that this longitudinal axis is vertical. Applicant notes that this longitudinal direction is not limited to being exactly vertical, but can be angularly spaced from vertical as long as the longitudinal direction is predominately vertical as shown in Figs. 7 and 8. Therefore the exact position or direction of the stack of articles is not important. The important feature set forth in claim 67 is that the ejector moves in a transverse direction to the longitudinal axis of the stack of articles, regardless of the actual direction of the longitudinal axis of the stack of articles.

Regardless of the actual direction of the stack of articles, claim 67 sets forth that the ejector is movable, or moves, in a transverse direction to the direction of the stack of articles. Therefore the orientation and location of the stack of articles is set forth in the claims as covering all possible predominately vertical orientations, as long as the ejector is movable in a transverse direction to the longitudinal axis of the stack of articles. If the Examiner has any comments or suggestions for alternate wording of this feature, the Examiner is invited to contact Applicant's representative by telephone to discuss possible changes.

Claim 67 has also been amended to set forth that the ejector individually ejects one of the articles from the stack in the transverse direction. This feature has been added to further differ from the prior art. Applicant does not find the feature of the ejector being movable in a transverse direction, or of any structure individually moving an article in the transverse direction in any of the prior.

Many of the other claims rejected under 35 USC § 112 have been amended to address the rejections and to make the claims more clear.

Applicant has reviewed many of the recitations rejected, and finds these recitations to be grammatically correct. These recitations clearly set forth structure and the relationship of that structure to other structure of the claims. In particular with regard to claim 36, a clamping plate and its function is clearly set forth. The rejection states that this recitation is unclear with respect to how the stack of articles is clamped by the clamping plate. Applicant notes that it is not an intention of claim 36 to be limiting with regard to how the stack of articles is clamped by the clamping plate. Instead claim 36 broadly sets forth a clamping plate having a specific function. Claim 36 is intended to cover all clamping plates having that specific function, regardless of how a stack of articles is clamped by a clamping plate.

If there is any clamping plate in the prior art which has the function of claim 36, that clamping plate in the prior art would anticipate claim 36, regardless of how a stack of articles was clamped. Claim 36 is therefore clear in that it broadly describes a clamping plate having a specific function, regardless of how that function is performed.

It appears that the rejection is equating a broad limitation as being an unclear limitation, because the broad limitation does not set forth specific features. Applicant notes that a limitation does not have to set forth specific features, but only clearly define what is to be protected by the claim. The size of a limitation does not effect its clarity. A claim can be very broad and still clearly indicate the metes and bounds that are to be protected. It is Applicant's position that in many of the recitations which have been rejected to as being unclear, are grammatically correct and clearly set forth a broad area to be protected.

If Applicant is misunderstanding the rejections, and/or if the Examiner has any comments or suggestions for alternate wording of these claims, the Examiner is invited to

contact Applicant's representative by telephone to discuss possible changes.

Claims 34 - 63 have been rejected as being anticipated by Neukam.

Claim 34 sets forth either a lower article ejector or an upper article ejector. In the embodiment of present Fig. 6, the lower article injector is shown by reference number 53. In the embodiment of Fig. 7, the upper article ejector is also shown by reference 53. Claim 34 sets forth that the lower or upper individual article ejector individually pushes either a lower most article or an upper most article of a stack of articles into an article shaft. In the embodiment of Figs. 6 and 7, the article shafts are shown by reference 4, and these articles shafts are in an article bay 3.

Applicant finds no teaching nor suggestion in Neukam, of either an upper or lower individual article ejector. This is especially true, with regard to an ejector which individually pushes a lower most or upper most article of the stack into a selected one of a plurality of articles shafts. In particular Applicant notes that neither element 18, nor elements 25/26 of Neukam individually push a lower or upper most article of a stack into a selected one of an article shaft. Therefore Neukam fails to anticipate all of the features of claim 34.

Applicant notes that independent claim 67 has not been rejected as being anticipated by Neukam. Applicant further notes that even if Neukam was to be applied to claim 67, claim 67 sets forth an ejector for individually injecting one of the articles from the stack of articles. As described above, Neukam does not teach nor suggest this feature. Therefore claim 67 cannot be anticipated by Neukam.

Applicant further notes that Neukam describes a loader 18 on the right side of the single figure which handles, as a unit, vertical stacks. The loader 18 pivots these vertical stacks about an axis 20 as they are picked-up from the ground 15. Loader 18 does not individually eject one of the articles from any stack of articles, but instead appears to perform a mass movement into

loader 14. Therefore element 18 of Neukam does not anticipate the ejector of claims 34 and 67.

Applicant also notes that Neukam has vertical shafts 3 with products 2 stacked in the vertical position. Present claims 34 and 67 set forth article shafts being sloped with respect to horizontal. A person of ordinary skill in the art would not consider vertical shafts 3 of Neukam to be similar to the article shafts of the present invention being sloped with respect to the horizontal.

Applicant further notes that element 26 appears to move an entire stack of articles into the shaft 3. This is possible in Neukam, since the shaft 3 is vertical. However in the present invention, the shafts are substantially horizontal and the ejector individually ejects one of the articles from the stack into the shaft. Therefore elements 26 and 3 of Neukam do not have the same relationship as the shafts and ejector of claims 34 and 67.

The present invention is an improvement over Neukam, because the present invention is able to individually eject articles from a stack of articles into a shaft. This is especially beneficial in the present invention where the shafts 4 form an article bay 3 as shown in Fig. 9. Article bay 3 can then be fitted with individual dispensers for dispensing single articles onto a conveyor belt shown in the bottom center of Fig. 9. Such a situation is very useful in pharmacies and other merchandising operations where individual articles need to be selectively removed and transported. The apparatus of Neukam, clearly cannot be used with an article bay where individual articles are to be selected and removed.

If the Examiner has any comments or suggestions which would further favorable prosecution of this application, the Examiner is invited to contact Applicant's representative by telephone to discuss possible changes.

At this time Applicant respectfully requests reconsideration of this application, and based on the above amendments and remarks, respectfully solicits allowance of this application.

Respectfully submitted
for Applicant,

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DATED: October 24, 2003
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BY:  DATE: October 24, 2003